

**BUTTE-SILVER BOW LOCAL GOVERNMENT  
STUDY COMMISSION**

**Minutes of the Public Hearing**

**June 1, 2006**

**Butte-Silver Bow Courthouse, Third Floor Council Chambers**

***Meeting Date:*** June 1, 2006

***Time:*** 12:00 p.m.

***Place:*** Butte-Silver Bow Courthouse, First Floor Conference Room

***Call to Order:*** Chairman Bob Worley brought the meeting to order at 12:00 p.m. and called roll with the following results:

***Members Present:*** Tony Bonney, Wayne Harper, Meg Sharp, Cindi Shaw, Northey Tretheway, Bob Worley and Shag Miller

***Excused Absences:*** Ron Rowling, Ristene Hall, Dave Palmer,

***Approval of Minutes:*** Minutes will be approved at the next meeting.

***Comments from Ron Rowling:*** Absent.

***Citizen Comments:***

***Guest Speaker:*** Ken Weaver wanted to make sure for the record it is understood that nothing has been confirmed as to whether the Study Commission may choose to utilize his services or not. The Study Commission will know whether they want to use his services after this afternoon's meeting and deliberations. Ken wanted it to be known that whether the Study Commission chooses or no choose to hire him for additional services, they will be billed for travel at states rates from Bozeman to Butte and back.

Second, Ken stated that he was concerned and confused in regard to the document that is titled Draft Certificate Established The Amended Charter is reported to be a copy of the present BSB charter as previously amended but it has some serious typo deficiencies/omissions that cause him to question whether it is a faithful reproduction of what the existing charter states. He would be terribly distressed to learn, after making revisions that he is working with a document that is not a reliable version of the existing BSB charter. Ken asked that they look over the Preamble as an example. Ken stated that there was language that is omitted from that section and stated it is not a faithful reproduction.

Ken asked how do you get words missing from a word-processed document?

Meg Sharp stated that she had a copy of the original charter.

Ken Weaver gave another example of language that has been omitted. Ken asked why they don't have a copy of the original?

The Study Commission stated that they do have a copy of the original. Ken requested a digitized copy of the charter.

Meg Sharp stated that initially they had three different copies of the charter.

Bob Worley explained the proposed changes they have made so far. Bob Worley apologized for the omission of language from the word-processed document.

Ken Weaver made reference to Section 5.02.

Ken Weaver again stated that he needs an Amended Charter as of 1996 preferably in electronic form.

Ken Weaver stated they don't want to end up with two originals that are only slightly different from one another. Ken made the comment that it would drive attorneys crazy.

Cindi Shaw explained thought the draft they had reflected the latest proposed language changes.

Ken Weaver stated that he would like to leave this afternoon's meeting knowing if the Study Commission would like to utilize his services. If they do decide to use his services, they have a clear understanding of what it is they are trying to accomplish with each of the proposed language changes so if they find it useful to word smite, they end up with the same outcome.

Ken Weaver walked through the Draft version of the Charter. He focused only on the items they have addressed and where they have proposed language changes.

Ken Weaver made reference to Section 3.02 (c). Ken stated that he knows it is something they have not addressed. He thought he could address it and should because there was a problem there as provided in Article 9.

Ken Weaver did not think they could omit the language they proposed to delete in that section. There would be an inconsistency if they did.

Cindi Shaw asked if it was a duplication. Ken Weaver replied not in Article 9 and believed the duplication occurs some place else.

Ken Weaver asked if it was their intent that there would be six districts...Shag Miller explained that there are 12 districts. Ken replied that raises another issue they need to know about. Ken confirmed with the Study Commission that they are not proposing to change that. Ken stated that it would raise the question in 9.03 that there may be a conflict. Ken confirmed that they intend for there to be 12 single member districts which

is to say only the voters in that district can vote for the candidate from that district or reside in that district?

Cindi Shaw replied that is correct.

Ken Weaver made reference to Section 3.04.

Bob Worley asked if he would go back to Section 3.02. Bob stated that he had discussed on the phone with him regarding subsection (c) and asked if he told that them, the Study Commission, that they could not remove Section 9.03.

Ken Weaver replied that he did not think so and would have to look at the whole thing. Ken stated, as Cindi pointed out there is another section in the charter regarding the number of commissioners. He would like to make all three of them are lined up. Ken stated that he does think Section 9.03 has to stay in or some version of it has to stay. Ken Weaver stated that he would take a hard look at that. He explained that he did not want to chop and substitute his words for the Study Commission's until he was absolutely sure of what they wanted to do, which is not change it.

Bob Worley asked if that would be Section 3.02 (a), The Composition? \

Ken Weaver replied probably and that it sounded reasonable.

Bob Worley asked that there might be a possibility that (a), (c) and 9.03 could be combined some way?

Ken Weaver replied yes but whether it is combined, left as is or deleted, they have to be congruent.

Ken Weaver referenced back to Section 3.04. Ken moved up to subsection (j) and stated all of that should be deleted.

Ken Weaver stated if state law eliminates that section, it is eliminated. Ken stated that they do not need (j) at all.

Wayne Harper replied that they do need (j). Wayne stated state law changed "at will" employment.

Ken Weaver replied that state law did not change. Ken Weaver referenced to Title 39, which has not changed.

Wayne Harper replied since 1976 it has.

Ken Weaver stated the problem was the language in the charter was inconsistent with state law and that is what he is afraid of in (j). It is inconsistent with Title 39. His point is if state law changes, it changes. An ordinance will have nothing to do with it.

Ken Weaver strongly recommended they omit (j). Ken moved on to subsection (l). Ken asked if they are really prepared to measure? Ken commented that he has spent a lot of time working on development of quantitative measures on public policy. Ken stated that would not be a good idea. The staff is not there. Ken stated the word “measure” is problematic. Ken stated they could leave it if they wish and it would not be a serious flaw but it is...somebody in the Chief Executive’s Office, if that is published or future Council of Commissioners is going to say we can review but how can we measure? Ken asked once it is measured, what are they going to do with it? They are talking about an elected official of government. Ken asked if they are going to beat up on him politically or what?

Bob Worley stated that kind of ties to Section 4.02 (i).

Shag Miller commented the one where the duplication comes in (l) and ties in with Section 4.02. It is really delineated there.

Ken Weaver replied that it is and is further delineated elsewhere in 4.02. Ken Weaver stated that language continues on and there is a lot of proposed language in that section, which is difficult. Ken Weaver asked if he could leave (l) with a question mark. He knows it ties in with 4.02 but until they, the Study Commission, resolve what they want at 4.02, it would clarify what needs to be there.

Shag Miller replied the majority has established that 4.02 (12) (i)...so it is redundant.

Ken Weaver replied that he thought it is redundant but asked that they permit him to highlight it in his copy with a question mark...depending on what happens with 4.02, that may make it obvious that it is redundant or inconsistent.

Shag Miller commented in discussion with Charlie O’Leary, he told them it has been a matter of management style. Lynch kept people up-to-date and Judy did not. Paul Babb has and reports consistently on his operations and activities.

Ken Weaver explained that he is not there to instruct the Study Commission on the proper balance with respect to shared information between the Chief Executive and the Council of Commissioners. Ken further explained that it is not that they are required that goals or objectives be established in a collaborative way in conjunction with the Council of Commissioners; the Chief Executive shall...his problem with it is they have so much detail that it would make it likely that it would not be complied with at all. If an effort were made to comply with it in good faith, it would consume an enormous amount of administrative-executive time. Ken explained how they would first need to get the goals set and agreed to. Then they would need to set up data collection systems to make sure they can document what they are going to say. Third, they would need to prepare a formal presentation to the Council of Commissioners.

Ken Weaver reviewed and read carefully subsection (l). Ken Weaver stated and let 10-20 years from now, the Council of Commissioners and the Chief Executive, decides what

those topics ought to be for a periodic, rather than quarterly. Ken stated the reporting from the Chief Executive to the Council of Commissioners should be going right now as a lead into the Budgeting process. Ken summarized that he thought it was micro managing in a document that is locked in concrete until the voters change it. Ken further stated that it is going to be very difficult to elicit genuine compliance from the Executive Branch and if they did get compliance, it is going to be expensive.

Northey Tretheway commented that there was a separations type of issue.

Ken Weaver replied if it was a manager form, where the Council of Commissioners could say, manager we want these goals accomplished in the coming year. If the manager does not meet those goals, he is let go. Ken asked what would they tell an elected official? Ken advised they allow more flexibility.

Shag Miller mentioned in this case they were going to do it because they were eliminating the Administrative Assistant.

Ken Weaver replied that he believes he knows why they did that and will visit that later on.

Ken Weaver referenced under (13) where they, the Study Commission, added the language, "in one-page" a preliminary summary of the budget. Ken reviewed the rest of the section. Ken commented that the Council of Commissioners could not live with that much information. The amount of work that would be generated would be excessive.

Northey Tretheway explained to Ken how that was brought up and the brochure the Ristene brought on Great Fall's budget that had all that information.

Ken Weaver replied that Great Falls has a City Manager that has a Master's Degree in Accounting. He is by far the most accomplished City Manager in the State of Montana. Second, they have a computer capability and an Information System's Department.

Bob Worley replied that he has met with Jeff Amerman, Director of Finance and Budget regarding this subject. He in the process of developing pie charts and...Ken intervened that they could sweeten the language a little bit. Ken suggested they prepare and provide the Council of Commissioners and the public an interim of annual financial information, including simplified graphics.

Bob Worley commented that he has asked Jeff Amerman if he would review the language in the section and possibly rewrite it in accordance with something they could comply to.

Ken Weaver replied if his services are engage, he would be happy to work with Jeff on that to make sure that the language enables rather than requires.

Wayne Harper replied the old language of (13) would enable Jeff to kick out whatever he wanted.

Ken Weaver replied that it does. You would rely on the good faith of an elected official to do what the charter states he ought to. Ken stated they could strengthen the language to state that he “must” if they want to.

Ken Weaver moved onto Subsection (ii), “a schedule of events leading to the approval of the budget...” Ken asked they shall what? Develop, provide, and publish? Ken stated that they would want the public to know they have the opportunity to participate before a budget decision is made. Furthermore they want to make sure the government knows the charter requires that the public knows.

Ken Weaver moved to (c)(iii). Ken stated the language “appointed Administrative Assistant” is common, it is written into the statutory version of the commission executive for a mayor council form of government. Ken stated the original language was “may appoint...”

Ken Weaver stated that they do not want to take that enabling language away from the Chief Executive. Ken stated that a selective, inappropriate or words like that, use of that authority is not, in his judgment, a good reason to change the possibility that the Chief Executive may need...Bob Worley explained their intention was if the Chief Executive needed an Administrative Assistant, he could go to the Council of Commissioners and have it done by ordinance. Bob Worley commented that it seems like each time that there has been an Administrative Aide, when a new Chief Executive gets elected, that particular Administrative Aide is not retained in that office.

Shag Miller mentioned the discussion with Don Robinson and “just cause”. Shag Miller mentioned contracted employees and gave an example of the Superintendent of Schools. Shag Miller told Ken that Bob McCarthy initially told them that was a good idea that they would hire the Department of Public Works on a two or three year contract with 30 day renewal notice. If the Chief Executive did not want to renew the contract, he did not have to. If he chose to renew it then the contract would be renewed. Shag stated that Bob is feeling they would not be able to get someone to serve under that system.

Ken Weaver replied that he is working on a county charter as they speak that will provide for the engagement by contract of all the (usually) elected county officials. He did not think there was any question that they could do that.

Ken Weaver asked if the council has to approve the position, to who is that person accountable?

Shag Miller replied to the Chief Executive.

Ken Weaver asked where does it state that?

Shag Miller replied that they have taken that language out. The job is gone.

Bob McCarthy stopped in.

Bob Worley asked Bob McCarthy where they could get a digital form of the existing charter. Bob Worley replied that he should contact Bob Farren and he would be able to provide him with that information.

Ken Weaver stated that if they provide him with the direction they want to do, he would draft the language for them.

Bob Worley clarified that Ken's suggestion is the Chief Executive may hire an Administrative Aide by contract?

Wayne Harper disagreed and stated they had already voted on this. Wayne stated if they say the Chief Executive may...that is court law. Wayne Harper gave examples of past situations. Wayne explained what they voted on is if the Chief Executive wants to hire an Administrative Aide, he can go before the Council of Commissioners and prove the job is needed to them. Wayne does not have a problem with an Administrative Aide being hired that is qualified for the position. He does have a problem with a person getting hired for the position because they are a close friend or relative of the Chief Executive and not getting the person. Wayne discussed how they would not be able to get good people under a contract basis.

Ken Weaver replied that is a persuasive argument. Ken Weaver commented, so a person is hired with consent of the council and the probation period is 6 months. Would that person be protected by wrongful termination statute? Ken replied the answer is yes. The person could not be terminated without cause. So if the current Chief Executive hired a competent person with the consent of the council, that person is going to be there for a while.

Ken Weaver stated it is not an easy question and his argument pertains to the latitude of the Chief Executive to hire a competent person. The only problem is you would have a person in that office for as long as they chose to stay in that office.

Bob Worley stated as a commission, they were "gun shy" to remove and the addition of "in accordance with state law" that they have proposed because they are trying to eliminate the lawsuits that have occurred.

Ken Weaver stated they could not correct that in the charter. That is why there is use of law because you could not put enough words in there to block or fence in a person who ignores law. There are not enough words to do that.

Wayne Harper recommended that they engage Ken for his services. Wayne mentioned the employment issues that go with contracts. Ken replied at least a contract has provisions written in it for the termination of the contract.

Wayne Harper mentioned the problems that could occur with contracts, such as breach of contracts.

Ken Weaver thought there was just formatting errors with the draft of the charter and referenced to Section 5.02 (b). He stated that he liked the deletion the Study Commission had made.

Ken Weaver moved on to Section 7.02-Public Works Department. Ken stated they, the Study Commission, deleted what the Public Works Department does and added “established by ordinance additional...” Ken suggested they take out the word “additional” and then the syntax would be good. The proposed language would read, “The Council of Commissioners shall establish by ordinance the responsibilities of the Public Works Department.”

Northey Tretheway explained how they are trying to simplify the charter.

Ken Weaver moved forward to Sections 7.07-7.09.

Bob Worley asked Ken to go back to Section 7.04. Ken asked them where else would it be? Bob Worley explained that they, the Study Commission, thought it should be a stand-alone department.

Northey Tretheway explained that it had been established previously and it already in existence. Northey asked why the charter should be guiding where that is located?

Ken Weaver replied Northey was right and that the charter does not need to guide where it is located.

Ken Weaver stated that would be same the issue with Finance and Budget.

Ken Weaver stated that he was not sure what the language “maintain an employee evaluation and job training system”

Bob Worley explained that is where they are trying to develop that in regard to “just cause” elimination of employees.

Ken Weaver asked if he would let him work on that.

Northey Tretheway commented that he should work on it with the knowledge the Bob McCarthy has said they have a very poor set of standards for how BSB HR Department works. Northey commented that Bob McCarthy had told them that is where a lot of their problems stem from and there are more grievances filed in BSB than anywhere else in Montana.

Ken Weaver made reference to Section 10.07.

Ken Weaver referenced back to Section 7.07-7.09. Ken asked why are they calling it the Animal Services System and not the Animal Control Department?



Cindi Shaw replied because it includes enforcement, administration and retention. They were looking at it providing full service.

Ken Weaver asked to whom is that department accountable. Ken stated that typically it is a Law Enforcement function not a Public Works function.

Meg Sharp replied that currently it is under Public Works. Ken stated that it should be under Law Enforcement.\

Shag Miller replied it would be a separate department accountable under the Chief Executive.

Shag Miller mentioned how they studied other communities and how Ristene Hall and Cindi Shaw met with Paul Babb regarding the issue.

Ken Weaver replied that he understands and he likes the idea. Ken stated if they are responding to what they perceive is a public demand that is the best kind of politics and government.

Ken Weaver replied that it should be under law enforcement. You have a criminal ordinance that needs to be enforced.

Ken Weaver asked if the Sheriff was elected?

Shag Miller mentioned other communities that had it under law enforcement. He also mentioned Great Falls and it being under contract.

Ken Weaver had an argument to make regarding the Superfund Coordinator. He stated the costs of creating another department.

Bob Worley replied that it would be in-house and go with an existing person.

Ken Weaver stated that if they are doing it due to public demand, he does not have a problem with it. It would just be costly.

Ken Weaver asked if that agency would be accountable to the Council of Commissioners and if so it should state that. Ken stated they need to state who it is they report to.

Shag Miller asked that they are going to retain Ken's services? Bob Worley replied that they are and it had been voted on at the last meeting.

Ken Weaver questioned the Community Enrichment Coordinator position.

Bob Worley explained that it is something they have been developing over the last two years. They asked Judy at that time to appoint a Community Enrichment Coordinator. It

got put off to where Dan Dennehy heads it and it is somewhat similar to the dog problem. If something else comes up that is more important, that does not get done.

Ken Weaver asked what is it that they get done? All they have done is create a coordinator. It does not state what that individual is supposed to do or whom he/she is to report to.

Ken Weaver had commented that his job is to ask the hardest questions he can. He can understand what it is they are trying to accomplish but asked what does “enrichment” mean?

Bob Worley stated it would coordinate activities between the Health Department, Public Works Department...Ken asked to what end? Ken stated they don't want to be coordinated. Ken asked for what purpose? Bob Worley replied to clean up Butte.

Ken asked is that what they are going to do is clean up? Ken stated they are concerned with them tearing down.

Bob Worley replied that they do have a historic district but there are areas outside the historic district that are messes. Bob Worley asked if it would help if he got Ken a copy of the Community Enrichment Ordinance? Ken replied that it would help a lot.

Bob Worley stated that he would fax him a copy.

Ken Weaver commented that he feels part of his job is to be objective and be sure of what it is they, the Study Commission is getting at.

Ken Weaver stated that he needs the original existing charter from 1996 in digital form.

Ken Weaver stated this would be top priority and from the time he receives the digitized charter, he would have it done within a week.

Bob Worley asked if he thought they should have another public hearing.

Ken Weaver stated if there were substantial changes he would recommend they hold another one. If it is minor language changes, he did not believe they would need to have another one.

There was discussion of printing costs associated with the ballot. Meg thought it was 15 cent a word.

**Adjournment:** Bob Worley entertained a motion for adjournment. Meg Sharp moved and Shag Miller seconded.

